

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                  )  
                                  Plaintiff, )                          8:11CR76  
                                  )  
                                  vs. )                          ORDER  
                                  )  
PIMENIO VELA HERRERA, )  
                                  )  
                                  Defendant. )

This matter is before the court on the motion of Deborah D. Cunningham to withdraw as counsel for defendant Pimenio Vela Herrera (Herrera) (Filing No. 26). The court held a hearing on the motion on June 22, 2011. Herrera was present along with Ms. Cunningham. The United States was represented by Assistant U.S. Attorney Justin Dawson. After consideration, the court finds the attorney-client relationship between Herrera and Ms. Cunningham has been irreparably ruptured and new counsel should be appointed. The court appoints Beau G. Finley as replacement counsel. Mr. Finley was present and entered his appearance. Mr. Finley requested additional time to review the case and determine whether or not to file any objections to the court's Findings and Recommendation on Herrera's motion to suppress. Herrera agreed to the request for additional time and acknowledged the additional time would be excluded from computations under the Speedy Trial Act.

**IT IS ORDERED:**

1. Deborah D. Cunningham's motion to withdraw as counsel for Herrera (Filing No. 26) is granted.
2. Beau G. Finley, 209 South 19th Street, #500, Omaha, NE 68102, (402) 345-1153, is appointed to represent Herrera for the balance of these proceedings pursuant to the Criminal Justice Act. Ms. Cunningham shall forthwith provide Mr. Finley with the discovery materials provided the defendant by the government and such other materials obtained by Ms. Cunningham which are material to Herrera's defense.

3. Herrera's request for additional time in which to file objections to the Findings and Recommendation (Filing No. 25) is granted. Herrera is given **until July 27, 2011**, in which to file any such objection. The additional time arising as a result of the granting of the motion, i.e., **from June 22, 2011, to July 27, 2011**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act for the reason defendant's counsel requires additional time to adequately prepare the case, taking into consideration due diligence of counsel, and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 22nd day of June, 2011.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge